

Filed: November 27, 1996

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 95-2973
(CA-95-2111-CCB, BK-95-1032-PM)

Prudential Insurance Companies of America,
Plaintiff - Appellant,
versus

Three Flint Hill Limited Partnership,
Defendant - Appellee.

O R D E R

The Court amends its opinion filed November 22, 1996, as follows:

On page 2, section 1, lines 3 and 6 -- the firm of "Swindler & Berlin" is corrected to read "Swidler & Berlin."

For the Court - By Direction

/s/ Patricia S. Connor

Clerk

UNPUBLISHED

UNITED STATES COURT OF APPEALS

FOR THE FOURTH CIRCUIT

In Re: THREE FLINT HILL LIMITED
PARTNERSHIP,
Debtor.

PRUDENTIAL INSURANCE COMPANIES OF
AMERICA,
Plaintiff-Appellant.

No. 95-2973

v.

THREE FLINT HILL LIMITED
PARTNERSHIP,
Defendant-Appellee.

and

UNITED STATES TRUSTEE,
Party in Interest.

Appeal from the United States District Court
for the District of Maryland, at Greenbelt.
Catherine C. Blake, District Judge.
(CA-95-2111-CCB, BK-95-1032-PM)

Argued: September 26, 1996

Decided: November 22, 1996

Before MURNAGHAN and ERVIN, Circuit Judges, and
PHILLIPS, Senior Circuit Judge.

Affirmed by unpublished opinion. Judge Ervin wrote the opinion, in
which Judge Murnaghan and Senior Judge Phillips joined.

COUNSEL

ARGUED: Patrick John Potter, SHAW, PITTMAN, POTTS & TROWBRIDGE, Washington, D.C., for Appellant. Roger Frankel, SWIDLER & BERLIN, CHARTERED, Washington, D.C., for Appellee. **ON BRIEF:** Lewis S. Goodman, SHAW, PITTMAN, POTTS & TROWBRIDGE, Washington, D.C., for Appellant. Michael J. Lichtenstein, SWIDLER & BERLIN, CHARTERED, Washington, D.C., for Appellee.

Unpublished opinions are not binding precedent in this circuit. See Local Rule 36(c).

OPINION

ERVIN, Circuit Judge:

Because in this case the district court sat as an appellate court in bankruptcy, our review of the district court's decision is plenary. In re Stanley, 66 F.3d 664, 667 (4th Cir. 1995); In re Varat Enters., Inc., 81 F.3d 1310, 1314 (4th Cir. 1996). We have therefore carefully considered the record, the briefs submitted by the parties, and the oral argument of counsel. We have also considered the unpublished opinions in In re 1550 Wilson Boulevard L.P., No. 96-10346-AM (Bankr. E.D. Va. filed June 21, 1996), and In re 1560 Wilson Boulevard L.P., No. 96-10403-AM (Bankr. E.D. Va. filed June 25, 1996), but find the loan documents in those cases to be distinguishable from those in the instant case. With all this in mind, we find we agree with the district court, and thus we affirm on the reasoning of the bankruptcy court in its memorandum of decision. Prudential Ins. Co. of America v. Three Flint Hill Ltd. Partnership (In re Three Flint Hill Ltd. Partnership), No. BK-95-1032-PM (Bankr. D. Md. entered June 23, 1995).

AFFIRMED